

**BEFORE THE STATE BOARD OF MEDIATION
STATE OF MISSOURI**

UNITED FOOD & COMMERCIAL WORKERS)	
UNION, LOCAL 655,)	
)	
Petitioner,)	
)	
vs.)	Public Case No. R 87-009
)	
SIKESTON PUBLIC SCHOOL DISTRICT)	
R-6, SCOTT COUNTY,)	
)	
Respondent.)	

JURISDICTIONAL STATEMENT

This case appears before the State Board of Mediation upon the filing by United Food & Commercial Workers Union, Local 655, of a Petition for Certification as Public Employee Representative of certain bus drivers employed by the Sikeston Public School District of Sikeston, Missouri. A hearing was held on February 16, 1987 in Sikeston, Missouri at which representatives of Local 655 and the school district were present. The case was heard by State Board of Mediation Chairman Mary Gant. Upon agreement by the parties, a record of the hearing was submitted to employer member Norman Litz and employee member Charles Yaeger for decision.

The State Board of Mediation is authorized to hear and decide the issues concerning appropriate bargaining units by virtue of Section 105.525, RSMo. 1978.

At the hearing, the parties were given full opportunity to present evidence. The Board, after a careful review of the evidence, sets forth the following findings of fact and conclusions of law.

FINDINGS OF FACT

Local 655 has filed a petition to be certified as public employee representative for certain employees of the public works in the following described unit:

All transportation department employees of the Sikeston Public School District, including mechanics and substitute bus drivers but excluding supervisors, guards, office clerical employees, building and grounds department employees, food service department employees, teachers, teachers' aides and teachers' assistants.

The school district contends that the unit proposed by Local 655 is inappropriate and that the Board should find appropriate the unit consisting of all non-certificated employees of the school district. Accordingly, the issue before the Board is whether the Board should certify a school district-wide unit of all employees or certify a smaller unit consisting of only certain transportation department employees.

The Sikeston Public School District R-6 Scott County (school district) is administered by an elected school board to whom the Superintendent of Schools reports. The various divisions or departments within the school district include primary education, secondary education, building and grounds, transportation and food service.

The school district encompasses an area over sixty square miles. There are twenty buildings located throughout the district, including six elementary schools, a middle school, a junior high school, a senior high school, a vocational building, a central office building, a transportation building, a maintenance department building and a garage for mechanical repairs.

There are approximately 34 employees who are assigned to the transportation department. Those employees hold the positions of bus drivers, substitute bus drivers, head mechanic, and an assistant mechanic. A supervisor and assistant supervisor oversee the employees of the transportation department. The parties have stipulated that these two employees should be excluded from the bargaining unit because of their supervisory status.

The transportation department provides all transportation services for the school district including normal daily routes and transportation for special field trips. The bus

drivers report to work daily at the transportation lot located some three blocks from the Board of Education building. Each bus driver is guaranteed four hours of work per day, although approximately one-half of the drivers work at least six hours per day. The transportation department also employs three substitute bus drivers who replace the regular drivers whenever they are absent. The bus driver's initial rate of pay is the minimum wage which is increased as the employee accrues years of service.

Located approximately twenty yards from the transportation department is the building and grounds department to which approximately 33 employees are assigned. This department is headed by a supervisor who oversees the work of various custodians and maintenance workers. These employees work eight hour days, Monday through Friday. These employees routinely do the daily repairs to the various buildings throughout the school district. The custodians are normally assigned to a particular building and do not need to report to the building and grounds office on a daily basis.

The food service department employs approximately 50 persons who work as head cooks, cooks and general food service employees. These employees are supervised by their own food service supervisor. The food service employees work varying shifts ranging from three and one-half hours to seven and one-half hours. They, like the transportation department employees, are hired at the minimum wage.

Finally, there is a secretarial unit of approximately 27 employees who work for the school district. These employees work eight hour shifts and have a supervisor different than the employees of the other departments. These employees are assigned to work in buildings throughout the school district and in the school district's administrative offices.

Testimony at the hearing established that there exist certain similar terms and conditions of employment for all of the employees in the various departments. All of

these non-certificated employees are paid on an hourly basis and are subject to the same retirement plan for all workers who work more than 20 hours per week. Further, none of the hourly employees are afforded health insurance through the school district and all have the same vacation and sick leave policies.

CONCLUSIONS OF LAW

Local 655 has petitioned to be certified as public employee representative of a bargaining unit consisting of certain employees of the transportation department of the Sikeston Public School District, excluding supervisory employees.

Local 655 contends that the transportation department employees should be recognized as "an appropriate unit" within the meaning of state statute. However, the school district argues that the Board should certify an appropriate bargaining unit consisting of all non-certified employees of the Sikeston School District in that they share a substantial community of interest due to the virtual identity of wages, hours, skills, benefits and other working conditions. Accordingly, the issue before the Board is whether the appropriate bargaining unit should entail all non-certificated employees throughout the school district or rather a more narrow unit consisting of only those employees in the transportation department.

An "appropriate unit" is defined by Section 105.500 (1), RSMo. 1978, as:

A unit of employees at any plant or installation or in a craft or in a function of a public body which establishes a clear and identifiable community of interest among the employees concerned;

It should be noted that the statute does not require the Board to certify an exclusive bargaining representative of the "most appropriate unit", but rather only an "appropriate unit." Although Missouri statutory law does not provide further guidelines for determining what constitutes a "clear and identifiable community of interest" in identifying an "appropriate unit" the Board has consistently looked to a number of factors

in determining whether employees have such a community of interest. See, Service Employees International Union, Local 96 v. City of Blue Springs, Missouri, Public Case No. 79-031 (SBM 1980). Such factors applicable to this case include the amount of contact or interchange among the employees concerned, similarities in pay, fringe benefits, type of work, and whether or not there is common supervision. A review of these factors clearly demonstrate that the transportation department employees do not share a community of interest with the other non-certificated employees of the Sikeston Public School District. There is a limited amount of personal contact between the transportation department employees and the employees of the other three departments. The record does not indicate that there is any interchange between the employees of the four departments. Further, it is clear that each department has separate supervisory personnel. Consequently, the Board concludes that the lack of common supervision and the absence of significant contact and interchange between the transportation department employees and those of the other departments, supports a finding that there is not a sufficient community of interest between the two groups to justify a certification of a district-wide unit.

The school district strongly argues that all of the non-certificated employees have similar terms and conditions of employment. The school district correctly asserts that all the employees are covered generally by the same rules and regulations concerning violations, fringe benefits, and promotion. Although all of the employees are covered by the same general rules, there is little similarity in their terms and conditions of employment in that there is a significant difference in the type of work performed by the clerical, custodial, and food service personnel as compared to that work done by the transportation department employees.

The school district also contends that the recognition of a separate unit of transportation employees will result in an over-proliferation of bargaining units with which the school district must meet and confer. The administrative costs, argues the school district, of negotiating separate pension plans, benefit provisions, and sick leave policies would drastically affect the level of services provided by the Sikeston School District. This problem, however, must be weighed against the protection of the employees' bargaining rights. In this case only the transportation department employees seek representation. Local 655 has declined to petition for certification as public employee representative of a school district-wide bargaining unit. Accordingly, in order to best protect the bargaining rights of the transportation department employees, the Board rules that the non-transportation department employees do not have a community of interest with the bus drivers and substitute bus drivers assigned to the transportation department and therefore must be excluded from the appropriate bargaining unit.

DECISION

It is the decision of the State Board of Mediation that an appropriate bargaining unit of employees is as follows: All transportation employees, including mechanics and substitute bus drivers but excluding supervisors, guards, office clerk or employees, building and grounds department employees, food service department employees, teachers, teachers' aides and teachers' assistants.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the Chairman of the State Board of Mediation among the employees in the unit found to be appropriate, as early as possible, but not later than thirty days from the date below. The exact time and place will be set forth in the notice of election to be issued subsequently, subject to the

Board's rules and regulations. Eligible to vote are those in the unit who were employed during the payroll period immediately preceding the date below, including employees who did not work during the period because of vacation or illness. Ineligible to vote are those employees who quit or were discharged for cause since the designated payroll period and who have not been rehired or reinstated before the election. Those eligible to vote shall vote whether or not they desire to be represented for the purposes of exclusive recognition by United Food & Commercial Workers Union, Local 655.

It is hereby ordered that the City shall submit to the Chairman of the State Board of Mediation, as well as to Local 655, within fourteen days from the date of receipt of this decision an alphabetical list of names and addresses of employees in the unit determined above to be appropriate who were employed during the payroll period immediately preceding the date of this decision.

Signed this 23rd day of April, 1987.

STATE BOARD OF MEDIATION

(SEAL)

/s/ Mary L. Gant
Mary L. Gant, Chairman

/s/ C. J. Yaeger
Charles Yaeger, Employee Member

/s/ Norman Litz
Norman Litz, Employer Member